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June 9, 2011

<u>Ex Parte via Electronic Filing</u>

Ms. Marlene H. Dortch
Secretary
445 12th Street, SW
Federal Communications Commission
Washington, DC 20554

Re: *Connect America Fund*, WC Dkt. 10-90; *A National Broadband Plan for Our Future*, GN Dkt. 09-51; *Establishing Just and Reasonable Rates for Local Exchange Carrier*, WC Dkt. 07-135; *High-Cost Universal Service Support*, WC Dkt. 05-337; *Developing a Unified Intercarrier Compensation Regime*, CC Dkt. 01-92; *Federal-State Joint Board for Universal Service*, CC Dkt. 96-45; *Lifeline and Link-Up*, WC Dkt. 03-109.

Dear Ms. Dortch,

On Tuesday, June 7, 2011, Chad Clawson, CEO of Global Conference Partners ("GCP"), and Jennifer P. Bagg and the undersigned of Lampert, O'Connor & Johnston, P.C. met separately with Jay M. Atkinson, John Hunter, Al Lewis, Doug Slotten, Rebekah Goodheart, Jenny Prime, and Victoria Goldberg of the Wireline Competition Bureau, and Zac Katz, Legal Advisor for Wireline Communications, International and Internet Issues to Chairman Genachowski; Margaret McCarthy, Policy Advisor for Broadband, Wireline and Universal Service to Commissioner Copps; Angela Kronenberg, Wireline Legal Advisor to Commissioner Clyburn; and Christine Kurth, Policy Director and Wireline Counsel to Commissioner McDowell, concerning proposed rules to address access stimulation as raised in the above-captioned proceedings.

During these meetings, GCP discussed the points made in the attached presentation, a copy of which was provided to Commission staff. GCP discussed the overall benefits of participant-paid conferencing as compared with host-paid conferencing and urged the Commission to factor these benefits into its decision-making in the above-referenced proceedings. GCP explained that it offers innovative conferencing – not pornography or salacious materials – to the public, noting that approximately 70% to 80% of GCP's users are small businesses, and the remainder are public/non-profits, government, and individuals. GCP explained how it generates profitable traffic for interexchange carriers ("IXCs") by creating long-distance communications where none would exist and that GCP believes that some IXCs view competitive conference providers as a threat to their conferencing business. GCP also explained that, based on its own revenues, it does not believe that the access stimulation issues are nearly as monetarily significant as are claimed by the large IXCs.

GCP discussed its supports of the FCC's proposed revenue sharing trigger and benchmarking approach to address access stimulation. As an alternative, GCP suggested that an approach modeled on High Volume Access Tariffs that decrease rates proportionate to an increase in traffic would also be appropriate and remove the "all or nothing" quality of the proposed approach. During the meeting with Wireline Competition Bureau staff, GCP also explained that other triggers would leave open opportunity to "game" the system and/or to litigate whether triggers had been met.

Finally, GCP stressed in the meetings how important it is for the Commission to provide certainty to the industry, and to explain clearly in its rules or implementing order that IXCs' bad faith "self help" refusals to pay access charges owing are impermissible and violate of the Communications Act.

Pursuant to the Commission's rules, this notice is being filed in the above-referenced dockets for inclusion in the public record. Please contact me directly should you have any questions.

Sincerely,

Mark J. O'Connor
Jennifer P. Bagg

Counsel for Global Conference Partners

cc (via email):

Jay M. Atkinson
John Hunter
Al Lewis
Doug Slotten
Rebekah Goodheart
Jenny Prime
Zac Katz
Victoria Goldberg
Margaret McCarthy
Angela Kronenberg
Christine Kurth

Intercarrier Compensation Reform

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FCC <u>Ex Parte</u> Presentation

WC Dkt. 07-135, *et al.*

June 7, 2011

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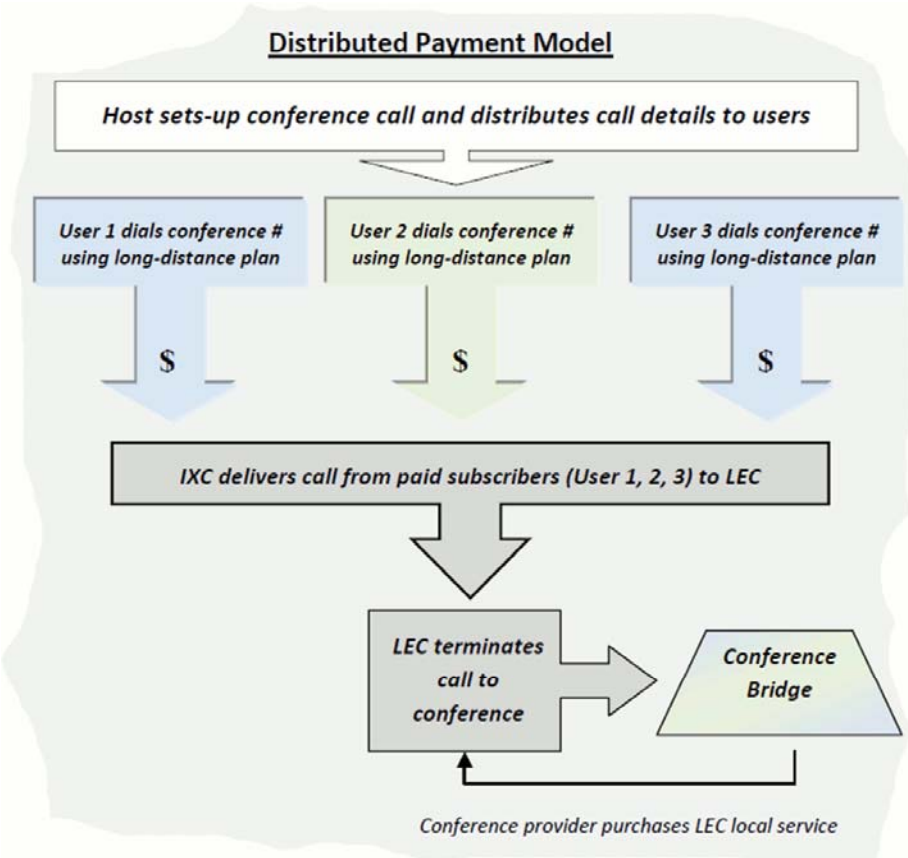
GCP's Competitive Conferencing Services Offer Many Benefits to Consumers and Competition

GCP's innovative communication technologies have democratized the industry by ***connecting over 294 million calls*** *with its competitive conferencing services since its inception.*

- ✓ Competitive user-managed conferencing has successfully improved consumer and business productivity, increased efficiency and reduced travel time/costs.
- ✓ Enhanced functionality and features include user groups, recordings, on-line "white board," desktop sharing functions, reminder services, email, stored information, and other innovative features.
- ✓ Users find services easier to use, less expensive, and more reliable than either IXC bundled-conferencing/800-number services or VoIP services.
- ✓ Competitive conference services exert pressure on traditional and VoIP conference call providers to lower rates, improve services, increase reliability and introduce innovative features.
- ✓ Distributed payment model (IXC customer pays) puts conferencing within the reach of many more users, including consumers, nonprofits, community service organizations.

Distributed Payment Model Puts Conferencing Within Reach of Many Users



- Competitive conferencing service is simply conference functionality unbundled from transport service;there is no “free ride” in free conferencing service.
- Enabling each caller to utilize their pre-subscribed service – whether they use wireline local or long distance, wireless or VoIP service – unburdens the conference host from the cost associated with paying for the long distance service for each participant of a conference call.
- Under the host pays model, hosts often must pay deposits to the conference provider, set-up/initiation fees, the transport cost for each caller into the conference bridge, and per-minute costs for each user.

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The Proposed Rules Are an Acceptable Compromise

The proposed revenue-sharing trigger is a reasonable way to tackle this complex access issue.

- Once new rates are established, there will be no apparent reason to discriminate in favor of one-on-one calls versus multiple-party calls and no party could legitimately argue such calls amount to arbitrage.
- The proposed approach is also tenable because it permits competitive conferencing service providers, such as GCP, an opportunity to continue to serve the public.
- By modifying its tariff to reflect the terminating access rate of the nearest BOC or incumbent LEC with the largest number of access lines in the state, a rural carrier with high traffic volumes will have addressed the low volume/high access rate assumption.

A trigger modeled on high-volume access tariffs may be an acceptable alternative.

- While GCP supports the Commission's proposed trigger and tariff requirements, the Commission could also follow the basic framework of HVA Tariffs.
- As a LEC's traffic volumes rise above the assumptions of rural traffic volumes, the rates are reduced down to BOC rates.
- In this way, the "all or nothing" aspect of the current proposed rule is avoided.

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Compliant Tariffs Should Have "Deemed Lawful" Status

The FCC should reject suggestions that statutory "deemed lawful" status should not be afforded to all LECs who file lawful tariffs.

- The FCC's proposal to extend the required notice period for revised tariffs from seven or fifteen days to at least sixteen days will ensure the FCC has sufficient time to review the newly filed tariffs of competitive LECs with revenue sharing arrangements.
- In no way should this alter the ability for a tariff properly filed to obtain the "deemed lawful" protections afforded to carriers in the Communications Act.
- Such a loophole would empower IXCs to exploit this vulnerability to the detriment of carriers who otherwise follow the rules.

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Bad Faith Non-Pay Threatens ICC System

The FCC must ensure rules are adhered to by all participants in the access charge regime.

- There is no question that the IXCs' "self-help" refusal to pay legitimate access charges harm consumers and competitive providers, and should be addressed in the FCC's regulations.
- The FCC must ensure that any changes implemented to reduce inefficiencies in the current access charge system are not immediately thwarted by parties who desire alternative outcomes or who believe the rules are not in their pecuniary interest.
- To maintain the integrity of its rules and regulations, the FCC should explicitly address in new rules or the implementing order the harmful self-help practices of IXCs that refuse in bad faith to pay access charges that are lawfully owed.
- Bad faith refusals to pay access charges owed should be deemed a violation of the IXC's duty to act in a just and reasonable manner under Section 201(b) of the Communications Act.

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CONCLUSION

The FCC should :

- ✓ Implement the revenue-sharing trigger as proposed or, in the alternative, adopt a trigger that follows high-volume access tariffs, which would reduce the rates of high-volume LECs as their traffic volumes increase above rural assumptions.
- ✓ Ensure LECs who follow the prescribed rules are afforded “deemed lawful” status consistent with the statutory directive.
- ✓ Explicitly address the self-help practices of IXCs who knowingly flaunt the integrity of FCC regulations by refusing to pay access charges that are lawfully owed.